



REVIEW OF
FORFEITED PROPERTY

**From The Office Of State Auditor
Claire McCaskill**

Report No. 99-97
October 8, 1999

AUDIT REPORT



Office Of The
State Auditor Of Missouri
Claire McCaskill

October 1999

The following information was determined and conclusions reached during our office's audit of forfeited property.

- ! Total seizures in the state were approximately \$47 million (\$7 million by state law enforcement agencies and \$40 million by federal law enforcement agencies) during the three years ended December 31, 1998. During this period, Missouri law enforcement agencies received more than \$19 million in Equitable Sharing proceeds. Five law enforcement agencies received 71 percent of the Equitable Sharing proceeds distributed with the State Highway Patrol receiving approximately \$3.5 million of these proceeds.
- ! The majority (85%) of the money and property seized on investigations participated in by Missouri law enforcement officers are handled under federal forfeiture laws.
- ! The total seizure dollars of \$47 million when compared to the state foundation formula would be less than 1 percent of the funding provided to local schools. In addition, the \$3.5 million proceeds received by the Highway Patrol represents less than 1 percent of its state operating funding.
- ! The majority of seizure cases handled by federal agencies with local law enforcement participation relate to criminal investigations controlled or partially controlled by the federal agency or it is unlikely the seizure could have been successfully forfeited under the Criminal Activity Forfeiture Act (CAFA) as it is currently structured or has been interpreted. The local law enforcement participation usually relates to officers assigned to federal task forces. Due to the fact that these local law enforcement officers could be subject to conflicting state and federal forfeiture regulations it is unclear which regulations should take precedence when a seizure occurs.
- ! Local law enforcement officers sometimes did not report property which may have been subject to seizure under the CAFA to county Prosecuting Attorneys or the Attorney General prior to contacting federal authorities to handle the seizure. The prosecutors have not been given the opportunity to determine how to proceed with these potential forfeiture cases.
- ! The state's CAFA (Sections 513.600 to 513.653 RSMo 1994) has unclear, incomplete or restrictive requirements which need to be addressed:
 - 1. Section 513.605 RSMo 1994 contains many definitions to be used when interpreting the CAFA; however, it fails to define when a "seizure" is considered to have taken place.
 - 2. The CAFA's restrictive time limits for when law enforcement officers must report seizures to prosecutors and for when the prosecutors must make a decision on when to file petitions for forfeiture may be contributing to some seizures being transferred by court order to federal authorities.

(over)

3. Section 513.607 RSMo 1994 which requires prosecutors to file annual seizure reports with the Department of Public Safety (DPS) is unclear regarding what the DPS is to do with the reports and several other reporting issues. The statute also does not specify a required report format or address submission noncompliance.
4. Section 513.647 RSMo 1994 allows seizures to be transferred to federal authorities under certain circumstances; however, the requirements allow virtually any seizure to be transferred by court order even when the corresponding criminal case remains in state courts to be prosecuted.
5. The CAFA generally has been interpreted to prohibit seized property from being forfeited unless the individual the property is seized from is convicted of or pleads guilty to a felony charge substantially related to the seizure. However, for many traffic stops by law enforcement officers which result in suspected narcotics proceeds being discovered, the vehicle occupants committed no felony crime for which they can be charged related to these monies. The expanded use of In Rem proceedings could allow some of these seizures to be forfeited under the CAFA.
6. Section 513.653 RSMo 1994 requires law enforcement agencies receiving Equitable Sharing proceeds to have those monies audited annually with the report being submitted to the State Auditor's Office (SAO); however, the statute does not address submission noncompliance or the fact that many law enforcement agencies receive very little Equitable Sharing proceeds annually.

! For the year ended December 31, 1998, only 57 percent (66/116) of prosecutors filed seizure reports with the DPS as required by Section 513.607 RSMo 1994. Most prosecutors in jurisdictions involved in a significant amount of seizure activity appropriately filed reports.

! During the two years ended December 31, 1997, the SAO received audit reports from seventy of ninety-four (75 percent) city and county governments with law enforcement agencies that received Equitable Sharing proceeds; however, it was not always clear if the Equitable Sharing proceeds were audited. Only twenty-seven of the ninety-four (28 percent) reports submitted clearly showed that the Equitable Sharing proceeds were audited; however, the reports represented 78 percent of the proceeds distributed to law enforcement agencies in these jurisdictions. Only three of eleven (27 percent) task forces which received Equitable Sharing proceeds during this period submitted audit reports which clearly showed the proceeds were audited.

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CLAIRE C. McCASKILL
Missouri State Auditor

Honorable Mel Carnahan, Governor
and
Members of the General Assembly

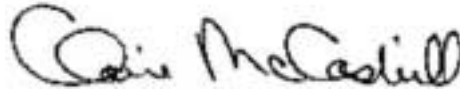
We have conducted a statewide review of seized and forfeited property. The objectives of this review were to:

1. Survey Missouri law enforcement agencies regarding seizure activity, compliance with state seizure and forfeiture laws and participation in the Federal Equitable Sharing Program.
2. Determine the amount of state and federal seizure activity in the state and its potential impact on school funding.
3. Analyze state and federal seizure cases participated in by state and local law enforcement agencies.
4. Review state seizure and forfeiture laws and determine any areas of concern needing improvement or clarification.

Our review was made in accordance with applicable generally accepted government auditing standards and included such procedures as we considered necessary under the circumstances. In this regard, we reviewed applicable state and federal laws, analyzed responses to surveys distributed, interviewed applicable personnel of various federal, state and local law enforcement organizations, and reviewed certain records and documents.

Our review was limited to the specific matters described above and was based on selective tests and procedures considered appropriate in the circumstances. Had we performed additional procedures, other information might have come to our attention that would have been included in this report.

The comments and analysis presented in the report represent our conclusions arising from our statewide review of seized and forfeited property.

A handwritten signature in black ink, appearing to read "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" written in a larger, more prominent script than the last name "McCaskill".

Claire C. McCaskill
State Auditor

July 9, 1999 (fieldwork completion date)

EXECUTIVE SUMMARY

We determined that total seizures in the state were approximately \$47 million (\$7 million by state law enforcement agencies and \$40 million by federal law enforcement agencies) during the three years ended December 31, 1998. During this period, Missouri law enforcement agencies received more than \$19 million in Equitable Sharing proceeds. Five law enforcement agencies received 71 percent of the Equitable Sharing proceeds distributed with the State Highway Patrol receiving approximately \$3.5 million of these proceeds.

From our audit procedures we reached the following conclusions:

- ! The majority (85%) of the money and property seized on investigations participated in by Missouri law enforcement officers are handled under federal forfeiture laws.
- ! The total seizure dollars of \$47 million when compared to the state foundation formula would be less than 1 percent of the funding provided to local schools. In addition, the \$3.5 million proceeds received by the Highway Patrol represents less than 1 percent of its state operating funding.
- ! The majority of seizure cases handled by federal agencies with local law enforcement participation relate to criminal investigations controlled or partially controlled by the federal agency or it is unlikely the seizure could have been successfully forfeited under the Criminal Activity Forfeiture Act (CAFA) as it is currently structured or has been interpreted. The local law enforcement participation usually relates to officers assigned to federal task forces. Due to the fact that these local law enforcement officers could be subject to conflicting state and federal forfeiture regulations it is unclear which regulations should take precedence when a seizure occurs.
- ! Local law enforcement officers sometimes did not report property which may have been subject to seizure under the CAFA to county Prosecuting Attorneys or the Attorney General prior to contacting federal authorities to handle the seizure. The prosecutors have not been given the opportunity to determine how to proceed with these potential forfeiture cases.
- ! The state's CAFA (Sections 513.600 to 513.653 RSMo 1994) has unclear, incomplete or restrictive requirements which need to be addressed:
 1. Section 513.605 RSMo 1994 contains many definitions to be used when interpreting the CAFA; however, it fails to define when a "seizure" is considered to have taken place.
 2. The CAFA's restrictive time limits for when law enforcement officers must report seizures to prosecutors and for when the prosecutors must make a decision on

when to file petitions for forfeiture may be contributing to some seizures being transferred by court order to federal authorities.

3. Section 513.607 RSMo 1994 which requires prosecutors to file annual seizure reports with the Department of Public Safety (DPS) is unclear regarding what the DPS is to do with the reports and several other reporting issues. The statute also does not specify a required report format or address submission noncompliance.
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5. The CAFA generally has been interpreted to prohibit seized property from being forfeited unless the individual the property is seized from is convicted of or pleads guilty to a felony charge substantially related to the seizure. However, for many traffic stops by law enforcement officers which result in suspected narcotics proceeds being discovered, the vehicle occupants committed no felony crime for which they can be charged related to these monies. The expanded use of In Rem proceedings could allow some of these seizures to be forfeited under the CAFA.
6. Section 513.653 RSMo 1994 requires law enforcement agencies receiving Equitable Sharing proceeds to have those monies audited annually with the report being submitted to the State Auditor's Office (SAO); however, the statute does not address submission noncompliance or the fact that many law enforcement agencies receive very little Equitable Sharing proceeds annually.

! For the year ended December 31, 1998, only 57 percent (66/116) of prosecutors filed seizure reports with the DPS as required by Section 513.607 RSMo 1994. Most prosecutors in jurisdictions involved in a significant amount of seizure activity appropriately filed reports.

! During the two years ended December 31, 1997, the SAO received audit reports from seventy of ninety-four (75 percent) city and county governments with law enforcement agencies that received Equitable Sharing proceeds; however, it was not always clear if the Equitable Sharing proceeds were audited. Only twenty-seven of the ninety-four (28 percent) reports submitted clearly showed that the Equitable Sharing proceeds were audited; however, the reports represented 78 percent of the proceeds distributed to law enforcement agencies in these jurisdictions. Only three of eleven (27 percent) task forces which received Equitable Sharing proceeds during this period submitted audit reports which clearly showed the proceeds were audited.

I - AUDIT METHODOLOGY

AUDIT METHODOLOGY

We performed the following procedures as part of our audit work:

- ! Reviewed state law regarding seized and forfeited property and school funding.
- ! Reviewed federal law regarding seized and forfeited property and the requirements of the Federal Equitable Sharing Program.
- ! Obtained and reviewed seizure and forfeiture laws for other states and analyzed information on Equitable Sharing distributions in those states.
- ! Tested audit report submission compliance for law enforcement agencies receiving Equitable Sharing proceeds.
- ! Tested Prosecuting Attorney seizure report submission compliance and summarized the data for those reports submitted to the Department of Public Safety.
- ! Sent surveys to county Sheriffs and Prosecuting Attorneys, city police departments, the State Highway Patrol and multi-jurisdictional task forces regarding property seized under the CAFA, proceeds received from the Equitable Sharing Program, seizures transferred to federal authorities and seizures participated in which were taken or controlled by federal authorities.
- ! Evaluated and conducted follow up audit work regarding the survey responses.
- ! Visited several law enforcement agencies to review the facts of some of the cases involving seizures participated in by those agencies.
- ! Requested and received seizure and Equitable Sharing distribution data from the Department of Justice and the Department of the Treasury regarding Missouri law enforcement agencies. Compared this data with the survey responses and resolved material differences.

II - INTRODUCTORY SECTION

Introductory Section

This section will provide background information on the following areas:

- ! Federal Forfeiture Law
- ! Missouri's Criminal Activity Forfeiture Act (CAFA)
- ! Federal Equitable Sharing Program
- ! State Funding to Public Schools

This section is designed to provide a summary of some of the laws and programs which impact seized and forfeited property.

State and Federal Forfeiture Laws

Federal Forfeiture Law

Various federal laws allow for criminal and civil forfeiture of property associated with criminal activity. The majority of the federal seizures we reviewed as part of this review were handled under the civil forfeiture process. Federal law, 21 U.S.C. 881 allows for civil forfeiture of any money, property or weapons which can be shown to have a connection to illegal drug trafficking.

The federal agency seizing the property is allowed to administratively forfeit all monetary instruments (cash, checks, stocks, bonds etc.) of unlimited value and other property which is valued at less than \$500,000. For administrative forfeiture the owner is given notice of the seizure which informs him or her of the requirements for filing a claim and posting a bond in order to challenge the action being taken. The owner's claim must state that he or she has an interest in the property and an argument to protest the forfeiture. In the event a claim is not filed, a summary judgement is ordered and the property is forfeited. If a verified claim is filed, the administrative forfeiture case becomes a judicial forfeiture case.

Judicial forfeiture is required for seized property with a value over \$500,000, property for which a verified claim and bond have been received, and all real estate. Under judicial forfeiture the federal government files a complaint and a hearing is held. The federal complaint generally shows that probable cause exists for forfeiture. The burden of proof is therefore shifted to the owner to show that the property is, by a preponderance of the evidence, not subject to forfeiture. During a federal civil forfeiture proceeding the criminal or drug history of the individual the property was seized from and the circumstances surrounding the seizure will be considered when attempting to show that it was used or derived from criminal activity. A federal civil forfeiture case can be established and successfully adjudicated without the individual from whom the property was seized being charged or convicted of any felony criminal act. In the event the burden of proof is not met by the property owner, a summary judgement is ordered and the property is forfeited to the federal government. Conversely, if the burden of proof is met, the property is returned to the owner.

Missouri's Criminal Activity Forfeiture Act (CAFA)

Missouri's CAFA comprises Sections 513.600 to 513.653 RSMo 1994. All property intended for use in the course of, derived from, or realized through criminal activity is subject to civil forfeiture. Seizures of this property may be made by state and local law enforcement officers if the seizure is incident to a lawful arrest, search, or inspection and the officer has probable cause to believe the property is subject to forfeiture. Within four days of the date of seizure, the law enforcement officer must report the seizure to either the state Attorney General or the Prosecuting Attorney of the county in which the seizure took place. The Prosecuting Attorney or state Attorney General generally must file a petition for forfeiture within ten days of notice of the seizure. After the petition for forfeiture is filed, every person known to have a claim or interest in the property is to be served with a copy of the petition and a notice of seizure in the manner provided by the Missouri rules of court and rules of civil proceeding. If a petition for forfeiture is not filed, the property is returned to the owner.

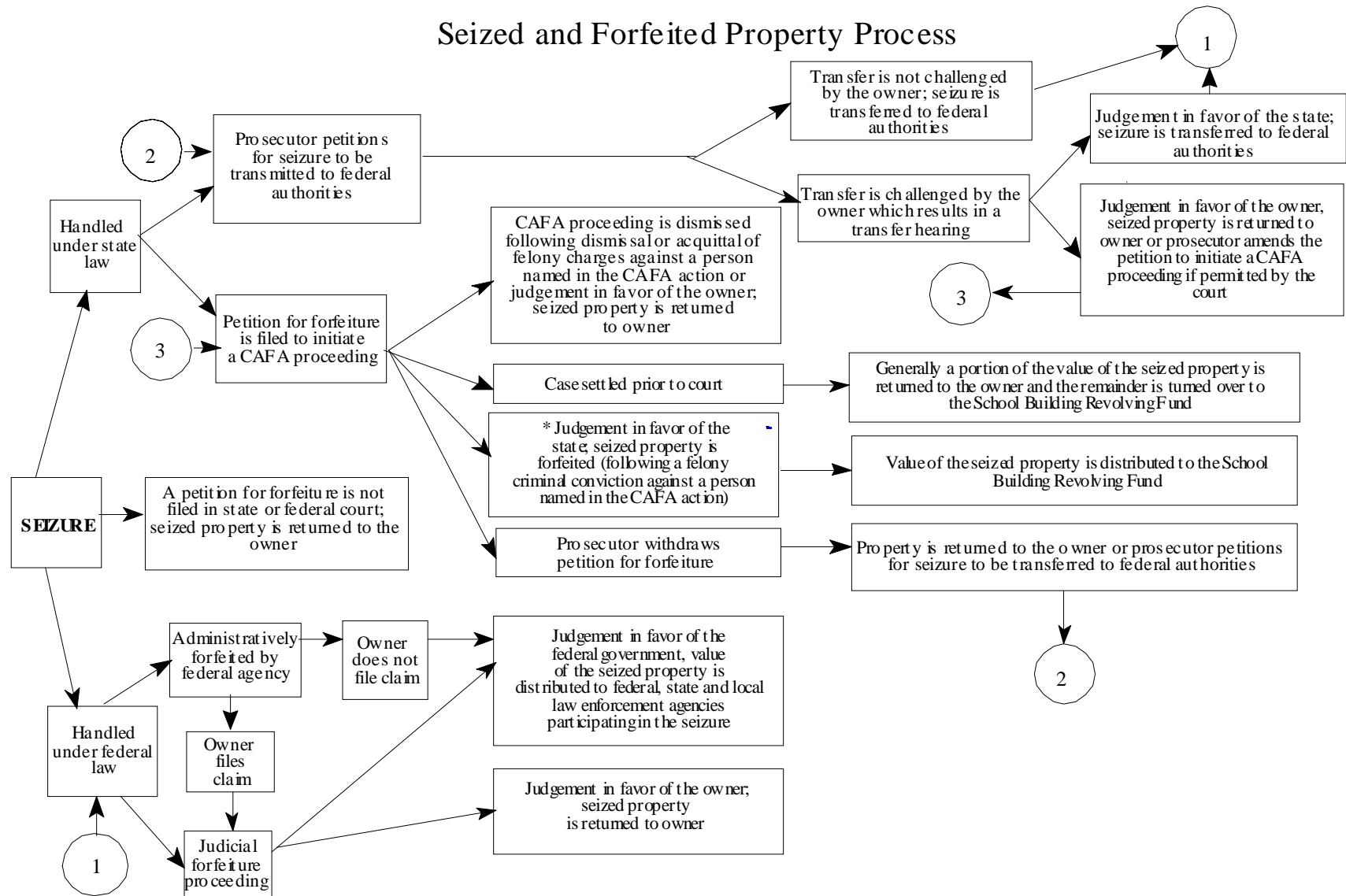
Completion of a CAFA proceeding must be delayed until disposition of any corresponding criminal charges filed against any individual claiming an interest in the property which is the subject of the proceeding. The property cannot be forfeited unless the person charged is found guilty of a felony or pleads guilty to a felony offense substantially related to the seizure. The property of a person arrested, detained or apprehended and not subsequently charged is not subject to forfeiture for that arrest, detention or apprehension. In general, to forfeit money or property under this act, the property owner or person the property is seized from must be charged with the criminal activity that brought about the seizure and that charge must result in a felony conviction.

Property seized by law enforcement officers may be transferred to federal authorities for forfeiture under federal law following the approval of the Prosecuting Attorney and the Circuit Judge of the county in which the property was seized. The transfer is not to be approved unless it reasonably appears the activity giving rise to the investigation or seizure involves more than one state or the nature of the investigation or seizure would be better pursued under federal forfeiture statutes. In addition, no transfer is to be made to a federal agency unless the violation would be a felony under Missouri law or federal law. The property owner must challenge the federal transfer within ninety-six hours of the transfer order being filed. A successful challenge may result in a hearing to evaluate the merits of the transfer.

An In Rem CAFA proceeding may also be initiated by petition by a county Prosecuting Attorney or the state Attorney General in cases where property is abandoned or unclaimed. Such proceedings may apply to cases for which the owner of the property is unknown or the individual from whom the property is seized disavows any ownership interest in it.

The federal forfeiture and state CAFA processes are illustrated in the flowchart on the following page.

Seized and Forfeited Property Process



* the felony conviction requirement does not apply to an In Rem CAFA proceeding involving abandoned or unclaimed property

Federal Equitable Sharing Program

The U. S. Department of Justice (DOJ) and Department of the Treasury (DOT) established the Equitable Sharing Program in 1984. The primary purpose of the Equitable Sharing Program, according to the DOJ's *A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies*, is "to deter crime by depriving criminals of the profits and proceeds of their illegal activities and to weaken criminal enterprises by removing the instrumentalities of crime." Under the program, federally forfeited assets are shared with state or local law enforcement agencies that assisted on cases, based on their participation with federal agencies on these investigations. Many Missouri law enforcement agencies have participated in the program since the late 1980's. To share in a seizure, a state or local law enforcement agency must have a Federal Equitable Sharing Agreement with the DOJ and/or the DOT and must submit a DAG-71 form, Application for Transfer of Federally Forfeited Property (DOJ law enforcement agency) or a TD F 92-22.46 form, Request for Transfer of Property Seized/Forfeited by a Treasury Agency (DOT law enforcement agency), to the federal agency that handled the seizure. Following a favorable resolution of the federal forfeiture case, the federal agency, U.S. Attorney's Office or the Office of the Deputy Attorney General, depending on the type of forfeiture case and the value of property forfeited, will make a decision on a local law enforcement agency's sharing request and determine the amount of proceeds to be shared. The amount shared will vary from case to case and will be transmitted to the state and local law enforcement agencies.

Upon receipt of Equitable Sharing proceeds, a local law enforcement agency is required to implement standard accounting practices and internal control procedures to track and account for these monies. The DOJ has issued *A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies* and the DOT has issued *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies* to provide guidance to law enforcement agencies regarding compliance requirements for these proceeds which includes limitations on how the monies can be spent. The local law enforcement agency is required to file an annual Certification Report with the DOJ and/or the DOT detailing the Equitable Sharing proceeds received and expended during the agency's fiscal year. The report also details the types of expenditures the funding was used for and the remaining balance of funds on hand at the end of the fiscal year.

State Funding to Public Schools

Under Section 166.300 RSMo 1998, effective August 28, 1998, all civil forfeitures are to be transmitted to the state for deposit into the School Building Revolving Fund. This statute which created the School Building Revolving Fund in 1993 originally limited this fund's source of funding to gifts, bequests and appropriations. The fund was inactive until forfeiture monies began to be deposited into it in the fall of 1998. The fund was established for the purpose of allowing school districts to submit applications for lease purchases from the revolving fund for specific projects consistent with the rules and regulations established by the State Board of Education and the requirements outlined by the statute. At June 30, 1999, the fund balance for the School Building Revolving Fund was \$170,231. No expenditures have occurred from the fund since its inception.

Prior to this statutory change, civil forfeitures were remitted to County Treasurers and distributed annually to local schools. State funding provided to local schools is determined on a monthly basis based on the school foundation formula computation outlined in Section 163.031 RSMo 1998. Under the computation, forfeiture funds received by a school district in one fiscal year were deducted from potential subsequent year state funding. In most circumstances, a school district received no direct additional financial benefit for forfeited proceeds received due to this adjustment in future state funding. Indirectly all school districts might have received some minor benefit from forfeiture amounts being deducted from an individual school district's state funding and subsequently being available for distribution to all school districts under the funding formula.

Section 163.032 RSMo 1994 requires that a school district's per pupil state funding cannot be less than the funding received under the state's prior funding formula computation which was last used for the 1992/1993 school year. For the last three fiscal years only approximately 10 percent of the school districts in the state benefited from this provision. Since forfeited funds were considered local funding these school districts benefited directly from any forfeited funds received during fiscal years 1998 and 1997 and would have directly benefited in fiscal year 1999 if this statutory change had not occurred.

During the three years ended June 30, 1999 state appropriations for aid to school districts under the foundation formula totaled \$4.5 billion with an additional approximately \$1.4 billion provided for student transportation and other specialized programs. The average annual number of students for this period was approximately 840,000. As a result, the estimated average state funding per student per year under the foundation formula appropriations was approximately \$2,340. For the three years ended December 31, 1998, we determined that approximately \$47 million (\$7 million by state law enforcement agencies and \$40 million by federal law enforcement agencies) in seizures took place which Missouri law enforcement agencies participated in. Even if all of these seizures would have been successfully forfeited under the CAFA only an additional \$19 per year in funding would have been available per student if all of these funds had been distributed to schools.

Under current law, no school district receives a direct benefit from forfeited seizures; however, any school district can apply for project funding through the School Building Revolving Fund.

III - LAW ENFORCEMENT AGENCY SURVEYS

Survey Description

The purpose of our survey was to obtain information regarding seized and forfeited property activity for Missouri's law enforcement agencies for the three years ended December 31, 1998. The survey asked for information regarding CAFA seizure activity, compliance with CAFA statutory requirements and participation in the federal Equitable Sharing program. Surveys were sent to the following jurisdictions:

- ! All 114 county Prosecuting Attorneys, the St. Louis City Circuit Attorney and the state Attorney General
- ! All 113 Sheriffs and the St. Louis County Police Department
- ! Sixty of the largest city police departments statewide
- ! The State Highway Patrol
- ! Eighteen task forces (Task forces generally comprise several jurisdictions which may include federal, state and local law enforcement agencies.)

Schedules A-1 through A-4 summarize which law enforcement agencies were sent survey forms and those agencies that participated by returning completed or partially completed forms as well as those which did not. Officials for some of the jurisdictions that failed to return the survey told us their legal counsel advised them not to return it while others chose not to participate even though we contacted them at least twice requesting the information. The response rate by jurisdiction was as follows:

Jurisdiction	Returned	Failed to Return	Total
Prosecuting Attorneys	94	22	116
Sheriffs and St. Louis County Police Department	98	16	114
City Police Departments	56	4	60
State Highway Patrol (1)	1	0	1
Task Forces	13	5	18
Total	262	47	309
Percentage of Total	85%	15%	

(1) Part of the survey was not completed

We used this survey information as a starting point for our analysis of seizures and forfeitures occurring within the state and/or participated in by Missouri law enforcement agencies. Subsequent sections of this report will summarize the information obtained as well as the additional work we have performed to evaluate it.

SCHEDULE A-1

REVIEW OF FORFEITED PROPERTY
SURVEY SUMMARY - PROSECUTING ATTORNEYS

County	Returned	Failed to Return	County	Returned	Failed to Return
Adair	X		Livingston	X	
Andrew		X	Macon	X	
Atchison	X		Madison	X	
Audrain		X	Maries	X	
Barry		X	Marion		X
Barton	X		McDonald	X	
Bates		X	Mercer	X	
Benton		X	Miller	X	
Bollinger	X		Mississippi	X	
Boone	X		Moniteau	X	
Buchanan	X		Monroe	X	
Butler	X		Montgomery	X	
Caldwell	X		Morgan		X
Callaway	X		New Madrid	X	
Camden		X	Newton	X	
Cape Girardeau	X		Nodaway	X	
Carroll	X		Oregon	X	
Carter		X	Osage	X	
Cass	X		Ozark	X	
Cedar	X		Pemiscot	X	
Chariton	X		Perry	X	
Christian	X		Pettis	X	
Clark		X	Phelps	X	
Clay		X	Pike		X
Clinton	X		Platte	X	
Cole	X		Polk	X	
Cooper	X		Pulaski	X	
Crawford		X	Putnam	X	
Dade	X		Ralls	X	
Dallas		X	Randolph	X	
Daviess	X		Ray	X	
Dekalb	X		Reynolds	X	
Dent	X		Ripley	X	
Douglas	X		St. Charles	X	
Dunklin		X	St. Clair	X	
Franklin	X		St. Francois	X	
Gasconade	X		St. Louis	X	
Gentry	X		Ste. Genevieve	X	
Greene	X		Saline		X
Grundy	X		Schuyler	X	
Harrison	X		Scotland	X	
Henry	X		Scott		X
Hickory	X		Shannon	X	
Holt	X		Shelby	X	
Howard	X		Stoddard		X
Howell	X		Stone	X	
Iron	X		Sullivan	X	
Jackson	X		Taney	X	
Jasper		X	Texas	X	
Jefferson		X	Vernon	X	
Johnson	X		Warren	X	
Knox	X		Washington	X	
Laclede	X		Wayne		X
Lafayette	X		Webster	X	
Lawrence	X		Worth	X	
Lewis	X		Wright		X
Lincoln	X		City of St. Louis	X	
Linn	X		Attorney General	X	

SCHEDULE A-2

REVIEW OF FORFEITED PROPERTY
SURVEY SUMMARY - SHERIFFS AND ST. LOUIS COUNTY POLICE DEPARTMENT

County	Returned	Failed to Return	County	Returned	Failed to Return
Adair	X		Linn	X	
Andrew	X		Livingston	X	
Atchison	X		Macon	X	
Audrain		X	Madison	X	
Barry	X		Maries	X	
Barton	X		Marion	X	
Bates		X	McDonald	X	
Benton		X	Mercer	X	
Bollinger		X	Miller	X	
Boone		X	Mississippi		X
Buchanan	X		Moniteau	X	
Butler	X		Monroe	X	
Caldwell	X		Montgomery	X	
Callaway	X		Morgan	X	
Camden	X		New Madrid	X	
Cape Girardeau		X	Newton	X	
Carroll	X		Nodaway	X	
Carter	X		Oregon		X
Cass	X		Osage	X	
Cedar	X		Ozark	X	
Chariton	X		Pemiscot	X	
Christian	X		Perry	X	
Clark	X		Pettis	X	
Clay	X		Phelps	X	
Clinton	X		Pike	X	
Cole	X		Platte	X	
Cooper	X		Polk	X	
Crawford	X		Pulaski		X
Dade	X		Putnam		X
Dallas	X		Ralls	X	
Daviess	X		Randolph	X	
Dekalb	X		Ray	X	
Dent	X		Reynolds	X	
Douglas	X		Ripley	X	
Dunklin	X		St. Charles	X	
Franklin	X		St. Clair	X	
Gasconade	X		St. Francois		X
Gentry	X		St. Louis County Police Department	X	
Greene	X		Ste. Genevieve	X	
Grundy	X		Saline	X	
Harrison	X		Schuyler	X	
Henry	X		Scotland	X	
Hickory	X		Scott	X	
Holt	X		Shannon	X	
Howard	X		Shelby	X	
Howell	X		Stoddard	X	
Iron		X	Stone	X	
Jackson	X		Sullivan	X	
Jasper		X	Taney	X	
Jefferson		X	Texas	X	
Johnson	X		Vernon	X	
Knox	X		Warren	X	
Laclede	X		Washington	X	
Lafayette	X		Wayne	X	
Lawrence		X	Webster	X	
Lewis	X		Worth	X	
Lincoln	X		Wright		X

SCHEDULE A-3

REVIEW OF FORFEITED PROPERTY
SURVEY SUMMARY - CITY POLICE DEPARTMENTS

City	Returned	Failed to Return	City	Returned	Failed to Return
Arnold	X		Kirkwood		X
Ballwin	X		Lebanon	X	
Bellefontaine	X		Lee's Summitt	X	
Belton	X		Licking	X	
Blue Springs	X		Marshall	X	
Berkeley		X	Maryland Heights (1)	X	
Bridgton	X		Maryville	X	
Cape Girardeau		X	Mexico	X	
Carthage	X		Moberly	X	
Chesterfield	X		Neosho	X	
Clayton	X		O' Fallon	X	
Columbia	X		Overland	X	
Crestwood	X		Poplar Bluff	X	
Creve Coeur	X		Raytown	X	
Excelsior Springs	X		Richmond Heights	X	
Farmington	X		Rolla	X	
Ferguson	X		Sedalia	X	
Florissant	X		Sikeston		X
Fulton	X		Springfield	X	
Gladstone	X		St. Ann	X	
Grandview	X		St. Charles	X	
Hannibal	X		St. Joseph	X	
Independence	X		St. Louis	X	
Jackson	X		St. Peters	X	
Jefferson City	X		Town and Country	X	
Jennings	X		University City	X	
Joplin	X		Warrenton	X	
Kansas City	X		Washington	X	
Kennett	X		Webster Groves	X	
Kirksville	X		West Plains	X	

(1) Part of the survey was not completed

SCHEDULE A-4

REVIEW OF FORFEITED PROPERTY
SURVEY SUMMARY - TASK FORCES

Task Force	Returned	Failed to Return
Bootheel Drug Task Force	X	
Buchanan County Drug Strike Force	X	
Combined Ozarks Multi-jurisdictional Enforcement Team (COMET)	X	
Jackson County Drug Abatement Response Team (DART)	X	
Jackson County Drug Task Force	X	
Jasper County Drug Task Force		X
Lake Area Narcotics Enforcement Group (LANEG)	X	
Mid - Missouri Unified Strike Team and Narcotics Group (MUSTANG)	X	
Mineral Areas Drug Task Force		X
Municipal Enforcement Group Against Drug Abuse (North County MEG)	X	
Northeast Missouri (NEMO) Drug Task Force		X
North Central Missouri Drug Task Force	X	
North Missouri Drug Task Force	X	
Southeast Missouri (SEMO) Drug Task Force		X
South Central Missouri Drug Task Force		X
Southwest Missouri Drug Task Force	X	
St. Charles County Regional Drug Task Force	X	
West Central Missouri Drug Task Force	X	

IV - EQUITABLE SHARING DISTRIBUTIONS
TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Equitable Sharing Distribution Analysis

Equitable Sharing distributions to Missouri law enforcement agencies for the three years ended December 31, 1998 are summarized on Schedule B. Some task forces redistribute Equitable Sharing proceeds received to the law enforcement agencies participating on it. To prevent these monies from being double counted in the schedule, the proceeds were only reported under the task force that originally received the monies.

To prepare the schedule, we compared the amount of Equitable Sharing proceeds received as reported by law enforcement agencies on the survey forms to Equitable Sharing distribution information obtained from the Department of Justice - U.S. Marshals Service and the Department of the Treasury - Executive Office for Asset Forfeiture. For law enforcement agencies that completed the survey, any significant difference between Equitable Sharing proceeds reported to us and the amounts shown as distributed to them by the federal agencies were discussed and materially resolved with the law enforcement agency. For law enforcement agencies that did not return the survey or for any that we did not send a survey, we used the amounts provided to us by the federal agencies for the schedule.

As shown on Schedule B and the pie charts which follow the schedule, the majority of the Equitable Sharing distributions in the state are made to a small number of jurisdictions. The pie charts show the five law enforcement agencies that received the most Equitable Sharing proceeds during each of the three years ended December 31, 1998 and for the three year period ended December 31, 1998. During the three years ended December 31, 1998, approximately 71 percent of Equitable Sharing proceeds distributed within the state went to only five law enforcement agencies.

As part of our audit procedures we did not compare the Equitable Sharing proceeds received to the annual operating budgets of the law enforcement agencies; however, for most jurisdictions the proceeds apparently represented only a small percentage of the operating budget for the law enforcement agency. For example, the approximately \$3.5 million in Equitable Sharing proceeds received by the State Highway Patrol during the three years ended December 31, 1998 represented less than 1 percent of the patrol's approximately \$404 million in appropriated funding during the three years ended June 30, 1999.

SCHEDULE B

REVIEW OF FORFEITED PROPERTY
EQUITABLE SHARING DISTRIBUTIONS TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Recipient Agency	Year Ended December 31,			
	1998	1997	1996	Total
First or Second Class County :				
Sheriff				
Boone	\$ 21,697	7,220	72,391	101,308
Callaway	7,386	0	0	7,386
Clay	0	94,725	0	94,725
Cole	0	3,750	1,554	5,304
Franklin	1,603	0	54,744	56,347
Greene	44,843	52,574	15,535	112,952
Jackson	3,704	2,745	7,163	13,612
Jasper	0	8,867	0	8,867
Jefferson	0	51,995	65,419	117,414
Lafayette	3,144	3,683	0	6,827
Pettis	1,585	0	84,061	85,646
Platte	122,641	119,389	177,129	419,159
St. Charles	108,108	29,838	112,434	250,380
St. Louis County Police Department	1,925,959	1,302,292	1,443,526	4,671,777
Prosecuting Attorney				
Cole	0	0	1,554	1,554
Jackson	20,530	5,272	30,853	56,655
Lafayette	0	2,262	4,468	6,730
Third Class County :				
Sheriff				
Benton	215	19,261	0	19,476
Butler	986	0	0	986
Christian	53,000	13,766	625	67,391
Grundy	0	1,255	0	1,255
Henry	0	7,960	0	7,960
Hickory	5,071	16,627	0	21,698
Howell	0	8,770	0	8,770
Laclede	0	0	2,730	2,730
Lawrence	9,952	0	0	9,952
Madison	3,371	0	0	3,371
McDonald	7,844	3,543	16,868	28,255
Mississippi	0	4,334	44,391	48,725
Montgomery	0	382	0	382
Morgan	0	4,389	0	4,389
Newton	9,546	1,716	0	11,262
Oregon	0	11,674	0	11,674
Perry	0	5,933	0	5,933
Phelps	13,916	28,143	650	42,709
Pike	0	842	0	842
Pulaski	0	0	819	819
Reynolds	9,855	0	0	9,855
Scott	0	0	4,541	4,541
St. Clair	0	0	1,941	1,941
Ste. Genevieve	0	2,235	0	2,235
Stoddard	0	5,828	0	5,828
Stone	3,756	0	0	3,756
Texas	5,201	0	0	5,201
Wayne	0	3,532	0	3,532
Webster	0	1,509	0	1,509

::

Third Class County (continued) :

	Prosecuting Attorney			
Adair	0	0	392	392
Clinton	0	909	0	909
Cooper	0	0	38,501	38,501
Henry	0	801	0	801
Laclede	0	0	390	390
Lawrence	0	6,059	0	6,059
Pemiscot	0	0	559	559
Phelps	444	0	0	444
Stoddard	0	1,943	0	1,943
Texas	5,366	0	0	5,366
Warren	36	2,733	0	2,769
Webster	5,035	0	13,700	18,735

City :

	Police Department			
Arnold	9,778	47,635	2,379	59,792
Ballwin	0	2,683	0	2,683
Belton	0	25,585	0	25,585
Berkeley	6,957	0	0	6,957
Beverly Hills	0	9,580	7,986	17,566
Blue Springs	2,228	0	0	2,228
Booneville	0	0	31,634	31,634
Bridgeton	6,292	0	3,928	10,220
Cameron	0	2,728	0	2,728
Cape Girardeau	5,130	0	2,673	7,803
Caruthersville	2,409	0	0	2,409
Cassville	0	0	9,210	9,210
Chesterfield	0	2,683	0	2,683
Clinton	0	3,301	7,570	10,871
Columbia	5,964	0	20,454	26,418
Doniphan	0	706	0	706
Ellisville	0	2,683	0	2,683
Eureka	0	15,031	9,081	24,112
Festus	0	0	32,895	32,895
Florissant	0	0	28,691	28,691
Fulton	7,434	0	18,849	26,283
Grain Valley	8,228	14,939	0	23,167
Grandview	5,038	0	11,592	16,630
Hannibal	0	0	1,594	1,594
Hazelwood	5,293	0	0	5,293
Herculaneum	0	0	10,331	10,331
Higginsville	0	2,197	0	2,197
Independence	29,773	18,651	17,431	65,855
Jackson	17,810	0	0	17,810
Jefferson City	2,412	0	20,403	22,815
Joplin	17,270	0	0	17,270
Kansas City	431,426	381,749	350,961	1,164,136
Kirkwood	0	12,604	0	12,604
Lake Lotawana	0	2,059	0	2,059
Lake St. Louis	0	2,671	0	2,671
Lebanon	1,901	0	0	1,901

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City (continued) :

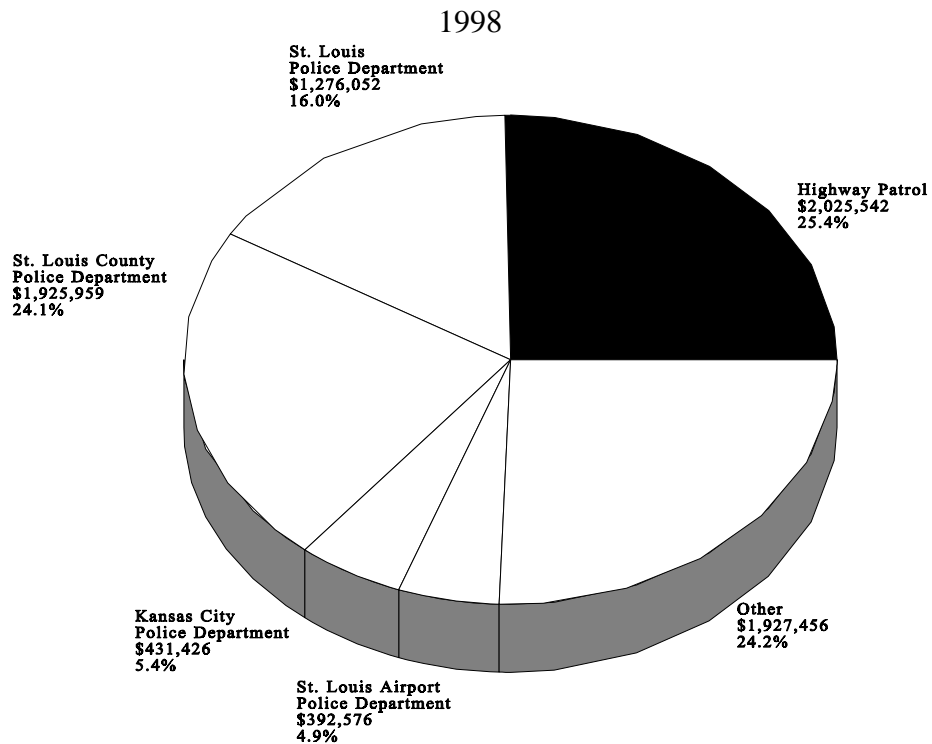
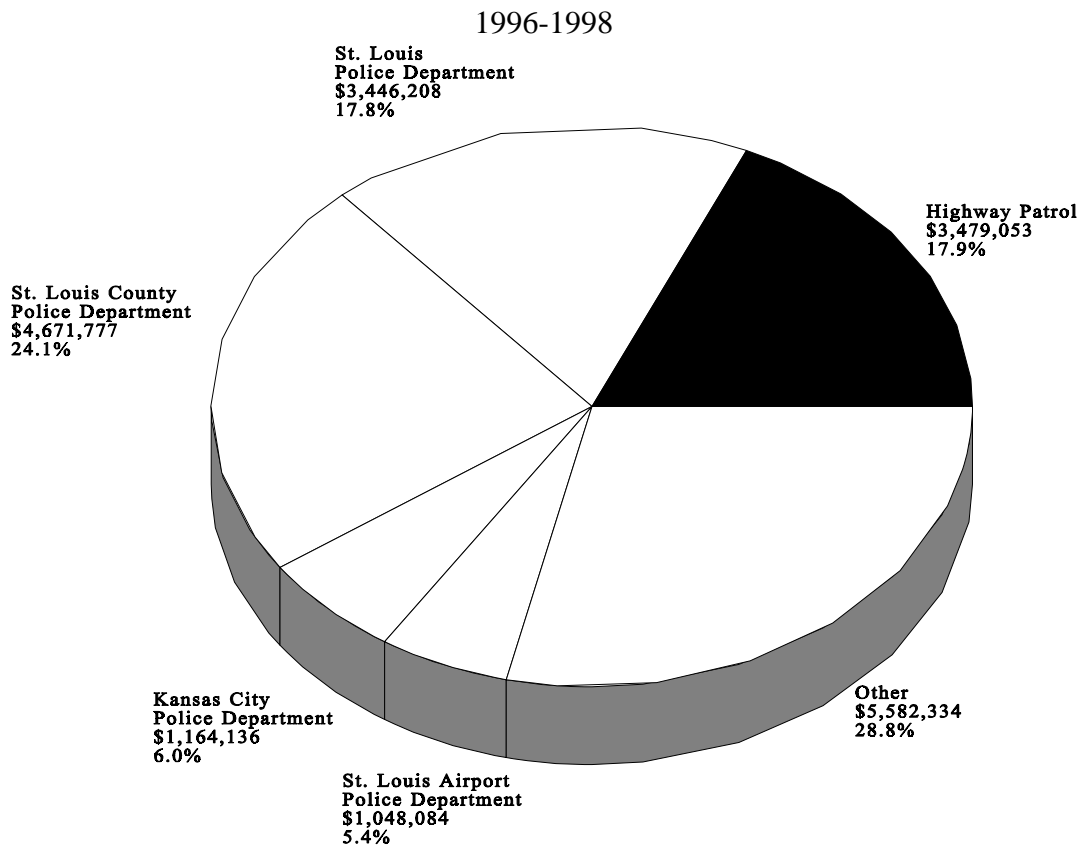
Police Department				
Lee's Summit	2,310	2,059	6,269	10,638
Lone Jack	0	0	1,777	1,777
Manchester	0	2,683	0	2,683
Maplewood	0	4,844	0	4,844
Maryland Heights	41,028	74,570	98,858	214,456
Moberly	39,648	0	0	39,648
Monett	0	0	4,770	4,770
Montrose	0	2,404	0	2,404
Northmoor	0	0	5,102	5,102
North Woods	7,797	0	0	7,797
Odessa	0	2,197	0	2,197
Osage Beach	7,437	0	0	7,437
Ozark	1,013	0	0	1,013
Park Hill	0	0	4,685	4,685
Pevely	2,963	0	0	2,963
Piedmont	0	15,520	0	15,520
Raytown	14,764	5,230	861	20,855
Richmond Heights	0	4,844	0	4,844
Sedalia	0	1,584	0	1,584
Shrewsbury	0	0	965	965
Sikeston	0	0	5,463	5,463
Springfield	199,071	40,125	109,778	348,974
St. Charles	17,411	992	2,805	21,208
St. John	10,640	0	0	10,640
St. Louis	1,276,052	1,269,077	901,079	3,446,208
St. Peters	0	29,670	112,434	142,104
Trenton	0	1,256	0	1,256
University City	7,503	0	6,720	14,223

Other :

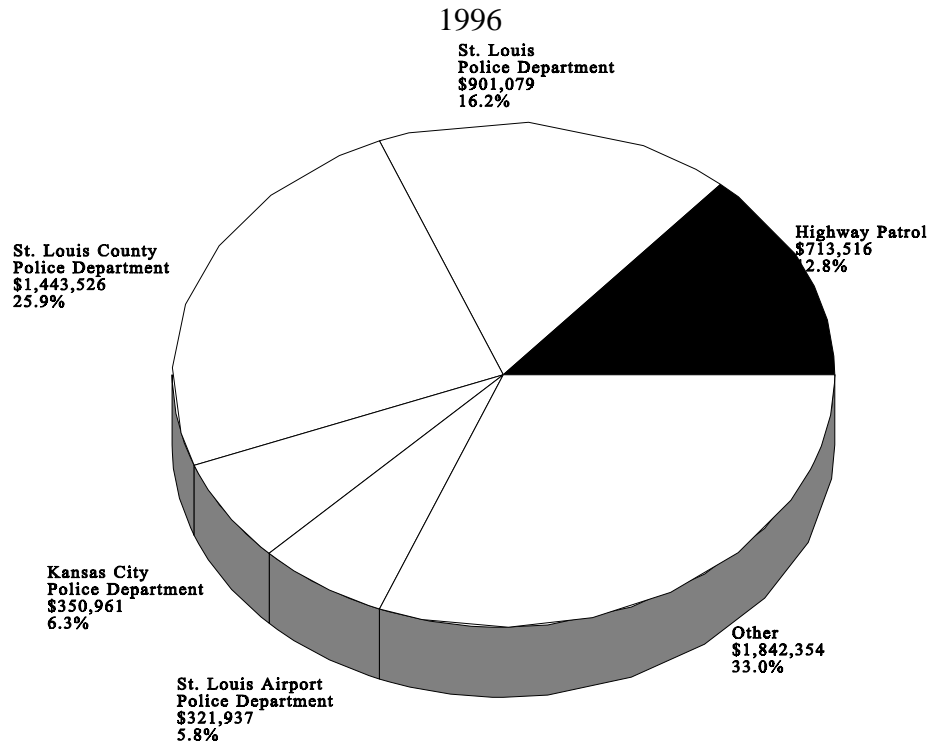
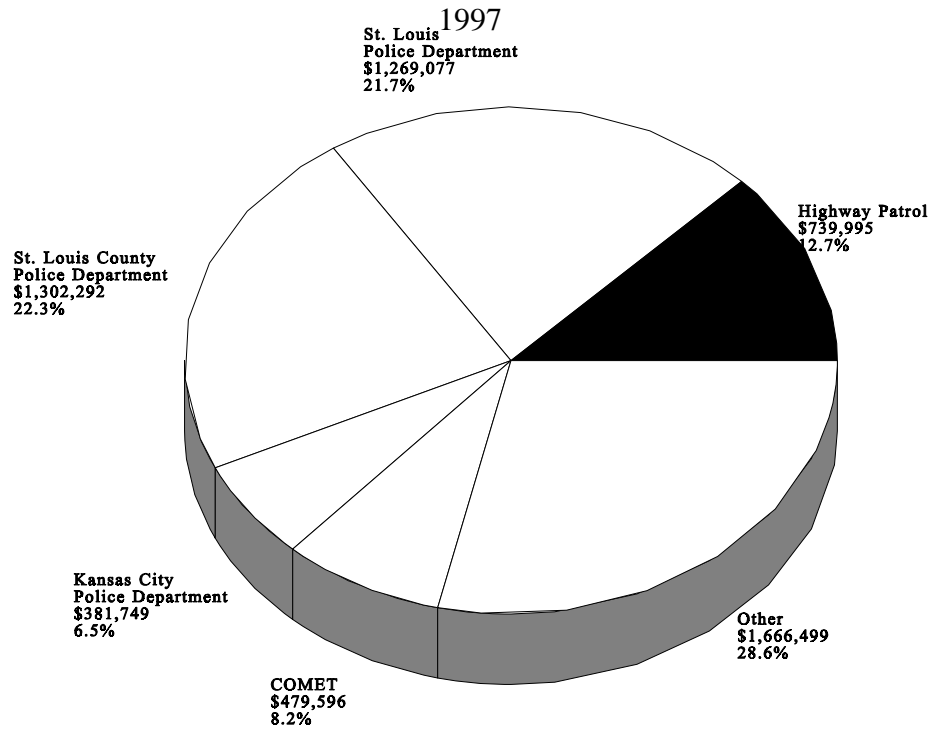
Task Force				
Bootheel Drug Task Force	6,424	20,816	0	27,240
Combined Ozarks Multi-jurisdictional Enforcement Team (COMET)	133,785	479,596	70,925	684,306
Jackson County Drug Task Force	63,286	22,342	63,732	149,360
Lake Area Narcotics Enforcement Group (LANEG)	78,008	5,660	6,998	90,666
Mineral Area Drug Task Force	123,255	166,036	9,435	298,726
Missouri National Guard Counterdrug Task Force	4,366	41,909	0	46,275
Municipal Enforcement Group Against Drug Abuse (North County MEG)	27,912	51,538	3,928	83,378
North Central Missouri Drug Task Force	0	460	0	460
Northeast Missouri (NEMO) Drug Task Force	31,787	0	0	31,787
Southeast Missouri (SEMO) Drug Task Force	324,528	17,699	57,503	399,730
Southwest Missouri Drug Task Force	3,770	0	0	3,770
St. Charles County Regional Drug Task Force	44,320	30,011	75,538	149,869
West Central Missouri Drug Task Force	8,976	11,716	0	20,692
Major Case Squad of the Greater St. Louis Metropolitan Area	0	0	172,439	172,439

Other				
Circuit Attorney's Office - St. Louis	30,531	36,871	31,256	98,658
State Highway Patrol	2,025,542	739,995	713,516	3,479,053
State Water Patrol	51,977	2,631	0	54,608
St. Louis Airport Police Department	392,576	333,571	321,937	1,048,084
Kansas City Airport Police Department	40,194	35,061	0	75,255
	<u>\$ 7,979,011</u>	<u>5,839,208</u>	<u>5,573,373</u>	<u>19,391,592</u>

Special Review - Forfeited Property Equitable Sharing Distributions to Law Enforcement Agencies



Special Review - Forfeited Property Equitable Sharing Distributions to Law Enforcement Agencies



Federal Forfeiture Audit Report Submission Compliance

Section 513.653, RSMo 1994 requires all law enforcement agencies using the federal forfeiture system to obtain an independent audit of the Equitable Sharing proceeds received and provide the audit to the State Auditor's Office (SAO). The SAO is responsible for auditing all third-class counties in the state and satisfies this statutory requirement as part of the audits of those counties. In addition, Equitable Sharing proceeds received by the State Highway Patrol, State Water Patrol and the National Guard Counterdrug Task Force would be audited by the SAO as part of the annual Statewide Single Audit of all federal funding received by the state. First and second-class county Sheriff departments and Prosecuting Attorney offices, city police departments and multi-jurisdictional task forces must comply with this statutory provision through the independent audits of the county, city or organization. The statute does not specify the type of audit to be obtained or the scope of the audit work. For those entities that submitted an audit report to the SAO, we reviewed the report to determine if federal forfeiture proceeds received were clearly identified in the audit report. Schedule C lists the compliance results for law enforcement agencies for fiscal years ended in 1996 and 1997. A summary of the results follows:

First and Second Class Counties

Thirteen first or second class counties received Equitable Sharing proceeds during 1996 and/or 1997. Each county was audited annually. Audit reports for eight counties clearly indicated the Equitable Sharing proceeds were audited. These eight reports represented 85 percent of the Equitable Sharing proceeds distributed to these thirteen counties. Audit reports for four counties (Cole, Jefferson, Pettis and Platte) supported that the Equitable Sharing monies were audited; however, the audit reports or other documentation supporting that these monies were audited was not submitted to the SAO until requested as part of our audit work. The Franklin County audit reports were submitted to the SAO, but did not clearly indicate that the Equitable Sharing proceeds were audited.

Cities

Seventy-eight cities received Equitable Sharing proceeds during 1996 and/or 1997. Fifty-eight of these cities submitted audit reports to the SAO; however, only nineteen of the reports clearly indicated that the Equitable Sharing proceeds were audited. The St. Louis, Kansas City and Springfield police departments had separate forfeiture audits performed and submitted those audits to the SAO. These nineteen reports represented 86 percent of the Equitable Sharing proceeds distributed to these seventy-eight cities. Twenty cities did not submit audit reports to the SAO.

Task Forces

Eleven task forces received Equitable Sharing proceeds during 1996 and/or 1997. The Municipal Enforcement Group Against Drug Abuse and the Jackson County Drug Task Force had separate forfeiture audits performed and submitted the reports to the SAO. The Equitable Sharing proceeds received by the Bootheel Drug Task Force were audited as part of the SAO audit of Pemiscot County. These three reports represented only 13 percent of the Equitable Sharing distributions to these eleven task forces. The City of Richmond which manages the North Central Missouri Drug

Task Force submitted an audit to the SAO, but it was not clear if the Equitable Sharing proceeds were audited. Seven task forces did not submit audit reports to the SAO.

Other

Three other law enforcement agencies received Equitable Sharing proceeds during 1996 and/or 1997. The audit reports for the cities of St. Louis and Kansas City were submitted to the SAO, but it was not clear if the Equitable Sharing monies received by the airport police departments and the St. Louis Circuit Attorney were audited.

It appears that the low level of compliance with this statutory requirement is related to the small amount of Equitable Sharing proceeds received by many of the jurisdictions. Fifty-one of the 105 law enforcement agencies included on Schedule C received less than \$10,000 in Equitable Sharing proceeds during the two year period.

Another reason for the low compliance with this statutory requirement appears to be due to the current statute having no penalty provision for those law enforcement agencies that do not submit an audit report.

As the result of our review of compliance with Section 513.653, RSMo 1994 we have determined that:

- ! The SAO received audit reports from most city or county governments with law enforcement agencies that received Equitable Sharing proceeds; however, it was not always clear if the Equitable Sharing proceeds were audited. Most task forces did not submit audit reports. City or county governments with law enforcement agencies that received the majority of the Equitable Sharing proceeds distributed within the state submitted audit reports which clearly showed these monies were audited.

However, it is evident that:

- ! The statute does not consider that many agencies receive very little Equitable Sharing proceeds annually.
- ! The statute fails to include some type of penalty provision in the event a county, city or task force fails to submit the required audit report.

SCHEDULE C

REVIEW OF FORFEITED PROPERTY
FEDERAL FORFEITURE AUDIT REPORT SUBMISSION COMPLIANCE

Recipient Entity	g Proceeds Received imitted To the SAO i			Comment
First or Second Class County				
Boone	\$	79,611	Yes	
Clay		94,725	Yes	
Cole		6,858	No	(2)
Franklin		54,744	No	(1)
Greene @		88,109	Yes	
Jackson		46,033	Yes	
Jasper		8,867	Yes	
Jefferson		117,414	No	(2)
Lafayette		10,413	Yes	
Pettis		84,061	No	(2)
Platte		296,518	No	(2)
St. Charles		142,272	Yes	
St. Louis County Police Department		2,745,818	Yes	
City				
Arnold		50,014	No	(2)
Ash Grove @		5,000	No	(1)
Ballwin *		22,481	Yes	
Belton		25,585	Yes	
Beverly Hills		17,566	No	(2)
Billings @		5,000	No	(2)
Bridgeton		3,928	Yes	
Bolivar @		5,000	No	(1)
Booneville		31,634	No	(1)
Branson @		5,000	No	(1)
Branson West @		5,000	No	(2)
Cameron		2,728	No	(1)
Cape Girardeau		2,673	No	(1)
Cassville		9,210	No	(1)
Chesterfield *		24,019	Yes	
Clayton *		19,068	No	(1)
Clever @		5,000	No	(2)
Clinton		10,871	No	(1)
Columbia		20,454	No	(1)
Crane @		5,000	No	(2)
Dellwood *		21,336	No	(2)
Doniphan		706	No	(1)
Ellisville		2,683	No	(1)
Eureka		24,112	No	(1)
Fair Grove @		5,000	No	(1)
Ferguson *		21,336	No	(1)
Festus		32,895	Yes	
Florissant		28,691	No	(1)
Fordland @		5,000	No	(2)
Forsyth @		5,000	Yes	
Fulton		18,849	Yes	
Grain Valley		14,939	No	(1)
Grandview		11,592	Yes	
Hannibal		1,594	No	(1)
::				

City (continued)

Herculaneum	10,331	Yes	
Higginsville	2,197	No	(1)
Hollister @	5,000	No	(2)
Independence	36,082	No	(1)
Jefferson City	20,403	No	(1)
Jennings *	38,374	No	(1)
Kansas City	732,710	Yes	
Kimberling City @	5,000	No	(1)
Kirkwood *	33,940	Yes	
Lake Lotawana	2,059	No	(2)
Lake St. Louis	2,671	No	(1)
Lee's Summit	8,328	No	(1)
Lone Jack	1,777	No	(2)
Manchester *	24,019	No	(1)
Maplewood	4,844	No	(1)
Marshfield @	5,000	No	(1)
Maryland Heights	173,428	Yes	
Monett	4,770	Yes	
Montrose	2,404	No	(2)
Nixa @	5,000	No	(1)
Northmoor	5,102	No	(2)
Odessa	2,197	No	(1)
Ozark @	20,000	No	(2)
Park Hills	4,685	Yes	
Piedmont	15,520	No	(2)
Raytown	6,091	No	(1)
Reeds Spring @	5,000	No	(2)
Republic @	5,000	No	(1)
Richmond Heights *	18,949	No	(1)
Rogersville @	5,000	No	(2)
Sedalia	1,584	No	(1)
Seymour @	5,000	No	(2)
Shrewsbury	965	No	(1)
Sikeston	5,463	Yes	
Sparta @	5,000	No	(1)
Springfield @	169,903	Yes	
Strafford @	5,000	No	(2)
St. Charles	3,797	No	(1)
St. Louis	2,170,156	Yes	
St. Peters	142,104	Yes	
Trenton	1,256	No	(1)
University City	6,720	No	(2)
Walnut Grove @	5,000	Yes	
Willard @	5,000	No	(1)

Task Force

Bootheel Drug Task Force #	20,816	Yes	
Combined Ozark Multi-jurisdictional Enforcement Team (COMET)	550,521	No	(2)
Jackson County Drug Task Force	86,074	Yes	

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Task Force (continued)

Lake Area Narcotics Enforcement Group (LANEG) #	12,658	No	(2)
Mineral Area Drug Task Force	175,471	No	(2)
Municipal Enforcement Group Against Drug Abuse (North County MEG)	55,466	Yes	
North Central Missouri Drug Task Force #	460	No	(1)
Southeast Missouri (SEMO) Drug Task Force	75,202	No	(2)
St Charles County Regional Drug Task Force	105,549	No	(2)
West Central Missouri Drug Task Force	11,715	No	(2)
Major Case Squad of the Greater St. Louis Metropolitan Area	172,439	No	(2)

Other

Circuit Attorney's Office - St. Louis	68,127	No	(1)
St. Louis Airport Police Department	655,508	No	(1)
Kansas City Airport Police Department	35,061	No	(1)

(1) An audit report was submitted, but it did not clearly indicate that forfeiture monies were audited.

(2) An audit report was not submitted to the SAO.

* Includes Equitable Sharing proceeds passed through a St. Louis County Police Department Task Force

@ Includes Equitable Sharing proceeds passed through COMET

Bootheel Drug Task Force - Part of the Pemiscot County audit
 LANEG - Part of the Camden County audit - Forfeiture monies were audited, but audit was not submitted to the SAO
 North Central Missouri Drug Task Force - Part of the City of Richmond audit

V - CAFA SEIZURE ACTIVITY

Summary of CAFA Seizure Activity

As part of our survey process as discussed in Section III and review of seizure reports filed by prosecutors with the Department of Public Safety (these reports are discussed later in this section) we obtained information regarding statewide seizure activity handled under the CAFA. The CAFA seizure activity for the three years ended December 31, 1998 was determined to be \$7,004,547. The disposition of these seizures was determined to be:

Disposition of CAFA seizures		1998	1997	1996	Total	Percentage of Total
Distributed to Schools	\$	446,467	492,897	520,682	1,460,046	20.8%
Transferred to Federal Authorities		786,343	600,081	453,668	1,840,092	26.3%
Pending or Returned to Defendant		1,963,438	757,763	983,208	3,704,409	52.9%
Total CAFA Seizures	\$	3,196,248	1,850,741	1,957,558	7,004,547	

As of the end of 1998, more than half of the total value of property seized during this three-year period was either still pending a final judgement or the property had been returned to the defendant. Some of the reason for the large percentage of open or failed CAFA proceedings may include:

1. CAFA proceedings on hold pending the results of criminal trials.
2. Prosecuting Attorneys settling CAFA cases prior to the completion of criminal trials with the defendant agreeing to forfeit a portion of the property (approximately 50 percent) in exchange for not challenging the seizure case.
3. CAFA proceeding being dismissed and the seized property being returned to the owner.

During this period, approximately a quarter of the total value of property seized was transferred to federal authorities. In order to analyze these transfers further we reviewed a portion of these transferred seizures.

Review of Seizures Transferred to Federal Authorities

We reviewed supporting documentation for 55 of 186 (30 percent) seizures that were transferred to federal authorities. We reviewed every seizure transfer identified from the prosecutor survey responses provided to us or noted on the seizure reports prosecutors filed with the Department of Public Safety except for the jurisdictions of Jackson County, St. Louis County and the city of St. Louis for which we selected only a portion of the transferred cases for review. The following table summarizes the results of the review:

Transfer Analysis	Number of Seizures	Amount Transferred
Seizure Probably Could Have Proceeded Under CAFA	30	\$ 422,549
Seizure Could Not Proceed Under CAFA	25	529,494
Total Reviewed	55	\$ 952,043

For thirty of the seizures, we noted that the transfer was approved by a prosecutor and Circuit Judge while the corresponding felony criminal case remained in a state court to be prosecuted. For eight of these thirty seizures representing \$199,187 of the total dollar amount reviewed, a request from the law enforcement agency was one of the reasons indicated by the prosecutor on the order requesting the seizure to be transferred to federal authorities. For all thirty of these transfers, it appears a CAFA forfeiture proceeding would have been possible or could have continued; however, they appeared to comply with state transfer restrictions. These transfers will be further discussed in the next part of this section. For the other twenty-five seizures, state felony charges could not be filed or charges were dismissed and as a result any CAFA proceeding could not have continued.

Impact of CAFA Statutes on Seizure Activity

From our work analyzing law enforcement seizures occurring in the state, we identified that during the three years ended December 31, 1998 approximately \$7 million in seizures were handled under the state CAFA process and approximately \$40 million were handled under federal forfeiture laws (see Section VI). As part of our analysis we reviewed the statutes which comprise the CAFA to determine if they may be having any negative impact on the number of CAFA forfeiture cases being handled in the state. Based on our review of documentation obtained as part of the survey process, discussions with law enforcement officials, and other work performed, we identified the following issues which may lead to some seizures being handled by federal agencies:

Lack of a Definition of Seizure

Section 513.605, RSMo 1994 contains various definitions to be used when interpreting the CAFA. The section is silent, however, as to the definition of "seizure." During our seizure case review the point in time in which property is considered "seized" often came into question. Law enforcement officers will sometimes contact federal officers to come to crime scenes to "seize" property for federal forfeiture. The local officers do not consider the property to have been seized even though prior to this time they have detained a suspect and located monies or property which may or may not be forfeitable under the CAFA. Various state and federal court rulings have established definitions of "seizure" which may support differing viewpoints as to what point a seizure has occurred. The lack of a definition of "seizure" in the CAFA allows for differing interpretations on what property is subject to the CAFA and when a seizure takes place.

Restrictive Seizure Reporting and Petition Forfeiture Decision Time Limits

Section 513.607.5(2), RSMo 1994 sets the time limits that both a law enforcement officer seizing property and the county Prosecuting Attorney or state Attorney General must comply with for seizures to proceed under the CAFA. The statute allows the officer seizing the property four days to report a seizure to the Prosecuting Attorney in the county the seizure took place or to the state Attorney General. The statute also allows the prosecutors ten days from the reporting date to file a petition for forfeiture. Although the statute does not specifically state that these time limits are to apply to petitions for transfer, our discussions with attorneys in some Prosecuting Attorney offices indicated some judges require that the transfer documents be filed within ten days as well. Section 513.617.4, RSMo 1994 allows the ten day time limit to file a petition for forfeiture to be extended by order of the circuit court, for up to ten days for each order with the total extension not to exceed thirty days. Even with a possible filing extension, prosecutors may have to decide whether to file a petition for forfeiture or a petition to transfer a seizure to federal authorities prior to the case being fully investigated by law enforcement or all criminal charges decisions being made.

Our review of seizure statutes for five states (Illinois, Kansas, Iowa, Minnesota and Arkansas) indicated law enforcement officers and prosecutors in these states had less restrictive deadlines for reporting seizures and filing petitions for forfeiture.

Felony Criminal Conviction

Section 513.617.1, RSMo 1994 states that in the event criminal charges arising from the same activity giving rise to the CAFA proceeding are filed against any individual claiming an interest in the property such a CAFA proceeding shall be stayed by the court until the disposition of the criminal charges. This statute further states that in such cases, no property shall be forfeited unless the person charged is found guilty or pleads guilty to a felony offense substantially related to the forfeiture.

This statute was added to the CAFA in August 1993. The Missouri Court of Appeals of the Western District interpreted this stipulation in a 1997 appeal decision [*State v. Sledd*, 949 S.W.2d 643, 646 (Mo App. 1997)] as "the General Assembly's desire to restrain what it perceived to be overzealous use of federal and state forfeiture statutes." From our case review, it appears this change has significantly limited the number of seizures for which CAFA forfeiture can occur, but had little impact on the number of potential federal forfeiture cases.

A factor which may lead to seizures in the state being handled by federal authorities is the extent to which current CAFA laws limit the state's ability to forfeit money and property that can be proven to be linked to drug activity as set forth in Section 195.140.2(2), RSMo 1994. This statute states that in the event money or property is found in proximity to drugs the burden of proof falls on the owner of the property to rebut the presumption that the property is forfeitable. However, Section 195.140.2(2), RSMo 1994 is immediately negated by Section 195.140.2(3), RSMo 1994 which subjects any forfeiture case to the CAFA. The CAFA, in effect, transfers the burden of proof back to the state by requiring a felony conviction prior to forfeiture. The following case exemplifies how requiring a felony conviction prior to forfeiture limits the state's ability to forfeit money and property that can clearly be linked to drug activity.

An individual was stopped on February 11, 1997. He had in his possession 9.7 grams of methamphetamine, 23.2 grams of marijuana, various pieces of drug paraphernalia, a concealed semi-automatic handgun, \$10,500 in cash in a duffle bag (separated into \$500 increments) and \$172 in cash on his person. This individual told officers that he was unemployed. He was arrested and charged with felony possession of a controlled substance and misdemeanor possession of drug paraphernalia. The individual had a history of narcotics involvement. On February 14, 1997, a petition for forfeiture under CAFA was filed against the \$10,672 in cash. He was properly served notice of the proceeding on March 4, 1997 and never challenged it. A warrant was issued for his arrest after he failed to appear in court on these criminal charges.

On November 7, 1997, this individual died of injuries sustained in a methamphetamine lab explosion. The pending criminal cases were dismissed as a result of his death. The civil forfeiture case remained active. On January 21, 1998 his estate filed a Motion for Summary Judgement on the civil forfeiture case citing Section 513.645.6, RSMo 1994 which states that in the event the related criminal charges are dismissed that the civil forfeiture action shall also be dismissed. The motion also stated that since a felony conviction could never be obtained, the money should be returned. The Prosecuting Attorney argued for a summary judgement for forfeiture under Section 195.140, RSMo 1994, Missouri's drug enforcement statute, due to the money being found in close proximity to drugs.

On March 23, 1998 the court heard arguments on the estate's Motion for Summary Judgement and entered an order in the estate's favor. The court concluded that since no felony conviction could ever be obtained, the money and property could not be forfeited under the CAFA. The Prosecuting Attorney appealed the decision.

On May 25, 1999, the appellate court upheld the trial court's ruling. The court agreed with the state's argument that the currency was forfeitable under Section 195.140.2(2), RSMo 1994. However, the appellate court pointed out that since Section 195.140.2(3), RSMo 1994 is tied directly to the CAFA, the money could not be forfeited due to Section 513.617.1, RSMo 1994 requiring a felony conviction be obtained prior to forfeiture.

While this case is unique in that the defendant died prior to the conclusion of his criminal case, it exemplifies how the felony requirement limits the state's ability to forfeit property that can be linked to illegal activity. From our review of forfeiture cases we noted other types of cases where the felony requirement limited the state's ability to proceed with forfeiture cases:

1. We noted many instances where an individual, with a history in narcotics trafficking, was stopped carrying only large amounts of cash. The cash tested positive for narcotics residue, but no narcotics were found to charge the individual with felony possession or distribution under state law. Unless the individual disavows ownership interest in the monies which would possibly allow the seizure to proceed as an In Rem CAFA case (This issue is further discussed in Section VI), the seizure case could only proceed in federal court.

2. We also noted instances where the defendant was shown leniency by the prosecution in exchange for information or help in identifying other narcotics traffickers. In such situations the defendant may plead guilty to several misdemeanor charges to avoid a felony conviction. In these instances because a felony conviction will not occur, the prosecutor has the option of attempting to transfer the seizure to federal authorities or returning the property to the defendant.
3. Other types of cases noted involved defendants that have fled prosecution. Even though the defendant may have been properly served notice of the civil case and has never challenged the forfeiture, the civil forfeiture case in some jurisdictions remains open and on the court's docket, sometimes indefinitely pending the defendant's apprehension on an outstanding warrant and the eventual outcome of the criminal trial. This situation results from courts interpreting differently the requirement of a CAFA proceeding being stayed until disposition of a corresponding criminal case. Some courts require the CAFA case be stayed under any circumstance while others will allow a default judgement if a defendant who flees prosecution was given timely notice of the seizure and did not file a claim for return of the property.

Transfers to Federal Authorities

Section 513.647, RSMo 1994 allows property seized by state or local law enforcement agencies to be transferred to any federal agency for forfeiture under federal law following approval of the applicable county Prosecuting Attorney and Circuit Judge. The restrictions on approving a transfer were discussed in Section I.

Our review of seizure cases transferred to federal authorities previously discussed, indicated that for thirty of fifty-five (54.5 percent) cases reviewed, the corresponding criminal case remained in state courts to be prosecuted. Some of these transfers may have been necessitated by the expiration of the reporting or petition for forfeiture filing time limits noted above; however, except for such restrictions there appears to have been no need for these transfers to have occurred even though they were made in compliance with applicable CAFA requirements.

The statute is also silent regarding procedural aspects involving the transfer of a seizure case to federal authorities when the petition for transfer is denied. In several jurisdictions prosecutors indicated that in the event their petition for transfer was denied, the judge hearing the case would order the seized property be returned to the owner, thus, not allowing the case to proceed under the CAFA. The reason provided for these decisions was that the ten day time limit to file a CAFA petition had been exceeded. In at least one jurisdiction, judges allowed a denied petition for transfer to be amended to a CAFA petition, thus allowing the prosecutor to continue under the CAFA.

From our audit work performed, the following statutory issues may be negatively impacting the number of CAFA forfeiture proceedings taking place or being completed:

- ! Lack of a definition of "seizure".

- ! Restrictive time limits for reporting seizures to prosecutors and for prosecutors to make petition for forfeiture decisions.
- ! Lack of clear exceptions to the general rule requiring a felony criminal conviction or guilty plea for a property owner prior to the potential forfeiture of property seized to the criminal case.
- ! Subjective guidelines allowing seized property to be transferred to federal authorities and a lack of clear statutory guidance for handling a seizure when a federal transfer order is denied.

Prosecuting Attorney Seizure Report Submission Compliance

Section 517.607.7, RSMo 1994 requires each county Prosecuting Attorney and the state Attorney General to whom CAFA seizures are reported to file an annual report with the director of the Department of Public Safety (DPS) by the end of January for the previous calendar year's seizures.

For each of the three years ended December 31, 1998, we obtained information from the returned survey forms and reviewed the annual reports submitted to the DPS to compile the compliance results summarized on Schedule D. For calendar year 1998, the DPS received reports from 66 of 116 (57 percent) prosecutors. For calendar years 1996 and 1997, the compliance percentage was below 50 percent for each year.

Our survey results indicated twenty-five Prosecuting Attorneys who did not file reports with the DPS for 1998 seizure activity had no seizures reported to their offices for that year. Our review of the reports filed with the DPS for 1998 seizure activity indicated eleven Prosecuting Attorneys filed reports despite having no seizure activity reported to their offices. Based on these results, it appears the statute wording is unclear as to whether a report is to be filed in the event no seizures were reported to a Prosecuting Attorney during the previous calendar year. In addition, we noted the statute includes no penalty provision in the event a Prosecuting Attorney fails to submit the required report.

The statute requires the reports to include the date, time and place of the seizure; the property seized; the estimated value of the property; the person or persons from whom the property was seized; the criminal charges filed; and the disposition of the seizure, forfeiture and criminal actions; however, no standard report format is required. Most reports filed with the DPS were prepared using different formats which made reviewing and analyzing them more difficult. A standard report format should eliminate this problem and provide DPS officials with an easier means to compare the information submitted by each prosecutor. In many instances, the disposition of cases was noted as pending due to the cases not being adjudicated as of the report filing date. The statute does not require pending cases to carry forward to the subsequent year's report. Most of the reports did not contain any additional information regarding pending cases on reports filed in subsequent years. Therefore, anyone reviewing these public documents cannot determine the disposition of a previously pending case without contacting the prosecutor's office.

The statute is also unclear as to whether cases that have been transferred to federal authorities should be included on the reports filed. During our case analysis discussed previously, we reviewed seizure cases handled by twenty county Prosecuting Attorneys and the St. Louis Circuit Attorney that were transferred to federal authorities following a judge's approval. The reports filed for six of these twenty-one (29 percent) prosecutors did not always include seizure cases transferred to federal authorities. Discussions with some of these prosecutors indicated their interpretation of the statute was that these cases did not have to be reported.

In addition, the statute does not specify what the DPS is to do with the reports. As a result, whatever benefit the legislature envisioned from the implementation of this reporting requirement may not be taking place.

As the result of our review of compliance with Section 513.607.7, RSMo 1994 we have determined that:

- ! Twenty-five prosecutors stated they did not file the required reports because they did not have seizure cases reported to them.
- ! Most prosecutors in jurisdictions involved in a significant amount of seizure activity appropriately filed reports.

However it is also evident that:

- ! The statute is unclear about whether a prosecutor must file a report if no seizures were reported to his or her office for the reporting period or whether cases transferred to federal authorities should be included on the report.
- ! The statute does not include some type of penalty provision in the event a prosecutor fails to submit the required seizure report to the DPS.
- ! The statute does not address in the reporting requirements that the disposition of criminal and forfeiture cases related to seizures may take more than a year.
- ! The statute does not provide the DPS the authority to establish a required standard reporting format or address what the DPS is do with the reports which are submitted.

SCHEDULE D

REVIEW OF FORFEITED PROPERTY
PROSECUTING ATTORNEY SEIZURE REPORT SUBMISSION COMPLIANCE

County/Other	Year Ended December 31,			County/Other	Year Ended December 31,		
	1998	1997	1996		1998	1997	1996
Adair	X		X	Livingston	&	&	&
Andrew				Macon	X		
Atchison	&	&	&	Madison	&	&	&
Audrain			X	Maries	&	X	X
Barry				Marion			X
Barton	X	&	&	McDonald	&	@	&
Bates	X			Mercer	&	&	&
Benton	X		X	Miller	X	X	@
Bollinger	X			Mississippi	&	&	X
Boone	X	X	X	Moniteau	X	&	&
Buchanan	X	@	@	Monroe	X	X	X
Butler	X	X		Montgomery			
Caldwell	X	&	&	Morgan			
Callaway	X	X	X	New Madrid	&	X	X
Camden				Newton	X	X	X
Cape Girardeau	X	X	X	Nodaway	X	X	
Carroll	&	&		Oregon	X	X	X
Carter	X	X	X	Osage	&	&	&
Cass	X	X	X	Ozark	X		
Cedar	&	&	X	Pemiscot	X	&	@
Chariton	X	&	&	Perry	&	&	&
Christian	X	&	&	Pettis	X	X	X
Clark		X	X	Phelps	X	X	
Clay	X		X	Pike		X	
Clinton	X	X	X	Platte	X	X	X
Cole	X	X	X	Polk			
Cooper	X	X	X	Pulaski	@	&	&
Crawford				Putnam	&	&	&
Dade	&	&	&	Ralls	X	X	X
Dallas				Randolph	X		
Daviess	X			Ray	X	X	X
DeKalb	X	X	X	Reynolds	&	&	&
Dent				Ripley	&	&	&
Douglas	&	&	&	Saline	X		X
Dunklin				Schuyler	X	&	&
Franklin	X	X	X	Scotland	@	X	X
Gasconade				Scott			
Gentry	X	X	X	St. Charles	X	@	@
Greene	X	X	X	St. Clair	&	&	&
Grundy	X	X	X	St. Francois			X
Harrison	&	&	&	Ste. Genevieve	&	X	&
Henry	X	X	@	St. Louis	X	X	X
Hickory	X	X	X	Shannon	&	&	&
Holt	&	&	&	Shelby	X	X	
Howard	X			Stoddard			
Howell	X	X	X	Stone		X	
Iron	&	&	&	Sullivan	X	&	X
Jackson	X	X	X	Taney	X	X	X
Jasper	X			Texas	X		
Jefferson		X	X	Vernon			X
Johnson	X	X	X	Warren	X	X	X
Knox	&	&	&	Washington	X	&	X
Laclede	X	X	X	Wayne			
Lafayette	X	X	X	Webster	@	&	&
Lawrence	X	X	X	Worth	X	X	X
Lewis	X	X	&	Wright	X		
Lincoln	X	X	X	Attorney General	&	&	&
Linn	X			St. Louis Circuit Attorney	X	X	X
				Total to file reports	66/116	48/116	50/116

X Filed a CAFA seizure report for the indicated year.

& Did not file a CAFA seizure report for the indicated year, but responded on the survey that no seizures had been reported to his/her office during the requested period.

Did not file a CAFA seizure report for the indicated year and did not respond to the survey or reported on the survey that he/she was new to office in January 1999 and did not know if reports had been filed.

@ Did not file a CAFA seizure report for the indicated year, but responded on the survey that seizures had been reported to his/her office during the requested period and provided details.

VI - FEDERAL SEIZURE ACTIVITY

Summary of Federal Agency Seizure Activity

As part of our survey process as discussed in Section III and review of the documentation provided by the Department of Justice and the Department of the Treasury, we obtained information regarding seizures handled by federal agencies that were participated in by Missouri law enforcement agencies. The total federal agency handled seizure activity for the three years ended December 31, 1998 was determined to be:

Federal Seizures	1998	1997	1996	Total
St. Louis and Kansas City Airport Seizures	\$ 3,264,837	2,515,294	2,416,575	8,196,706
Other Seizures	14,400,554	9,475,513	7,976,889	31,852,956
Grand Total	\$ 17,665,391	11,990,807	10,393,464	40,049,662

To prevent the same seizures from being counted more than once due to law enforcement agencies participating on the same seizure case, we deleted identified duplicate seizures from the overall seizure totals obtained from the survey responses. Seizures at airports would be inherently federal cases due to the multi-state nature of activities occurring at them, as well as, Federal Aviation Administration oversight. Such seizures represented 21 percent of all federal agency handled seizures during the three years reviewed. In addition, in most cases (85 percent or more) the individual the monies were seized from committed no chargeable felony crime under Missouri law and a CAFA proceeding in most cases would be unlikely.

Many local law enforcement agencies have officers that are detached to federal task forces. The task forces are often established to allow the officers to perform their duties in multiple jurisdictions. Section 513.649 RSMo 1994 requires property seized by state or local law enforcement officers who are detached to or working in conjunction with federal agencies to be subject to the CAFA. Often these officers may be working cases on which seizures take place where the actual "seizure" is made by a federal agent assigned to the task force. Each law enforcement agency with officers detached to the task force will participate in the Equitable Sharing of these proceeds even if the detached officers were not part of the case that resulted in the seizure. As noted in Section V the point at which a seizure occurs is often open to interpretation. Based on our review of local law enforcement case files involving seizures handled by task forces it was often unclear whether a detached local law enforcement officer or a federal agent handled the seizure. Due to the fact that detached local law enforcement officers could be subject to conflicting state and federal regulations when conducting a seizure it is unclear whether federal or state forfeiture statutory requirements should take precedence.

To evaluate the circumstances which led to some of the federal agency controlled seizures we reviewed the case documentation for some of them at several local law enforcement agencies.

Federal Forfeiture Case Analysis

We selected cases at the following law enforcement agencies for review: Kansas City Police Department, St. Louis Police Department, St. Louis County Police Department, St. Charles County Regional Drug Task Force, Piedmont Police Department, Hickory County Sheriff's Department and the State Highway Patrol. We also attempted to review seizure case documentation at the Boone County Sheriff's Department and the Mid-Missouri Unified Strike Team and Narcotics Group (MUSTANG) task force, but were denied access to records by these organizations. We selected primarily for review law enforcement agencies which received a significant amount of Equitable Sharing proceeds identified from our work in Section IV.

We also selected some other agencies in order to obtain a better understanding of seizure activity at jurisdictions which received a limited amount of Equitable Sharing proceeds. The results of the case review are summarized in the following table:

Federal Forfeiture Case Analysis					
Law Enforcement Agency	Seizures Controlled by Federal Agency		Transferred to Federal Agency With Court Approval		Value of Seizures Reviewed
	Federal Agency Case	Local Law Enforcement Case	Total	Total	
Kansas City Police Department	25	13	0	38	\$ 1,998,404
St. Charles County Regional Drug Task force	1	7	2	10	142,656
St. Louis County Police Department	20	0	4	24	1,092,100
St. Louis Police Department	16	4	0	20	1,898,053
State Highway Patrol	1	7	0	8	5,978,980
Piedmont Police Department	0	1	0	1	15,418
Hickory County Sheriff's Department	0	1	2	3	38,775
Totals	63	33	8	104	\$ 11,164,386
Percentage of Total	60.6%	31.7%	7.7%		

If the case the seizure resulted from was initiated or controlled by a federal agency or federal task force, the seizure was classified as a "Federal Agency Case." The following table breaks down the cases classified in this manner:

Federal Forfeiture Case Analysis - Federal Agency Cases					
Law Enforcement Agency	Federal			Total Cases	Value
	Airport DEA	Post Office	Seizure Made		
Kansas City Police Department	13	1	8	3	25
St. Charles MEG Unit	0	0	0	1	1
St. Louis County Police Department	12	3	2	3	20
St. Louis Police Department	4	0	1	11	16
Missouri State Highway Patrol	0	0	0	1	1
Piedmont Police Department	0	0	0	0	0
Hickory County Sheriff	0	0	0	0	0
Totals	29	4	11	19	63
					\$ 4,201,363

Based on our review of these case files we identified that a federal agency initiated the case which resulted in the eventual seizure and federal task forces were involved in the investigations. It was sometimes unclear based on the case information whether any detached local law enforcement officers were involved in the seizure activity. If a detached officer made any of these seizures, it appears that they should have been

reported to the county Prosecuting Attorney; however, it is likely these seizure cases would be transferred in accordance with Section 513.647 RSMo 1994 to federal authorities involved in the case investigation and prosecution.

If the case the seizure resulted in was controlled or initiated by a local law enforcement agency the seizure was classified as "Local Law Enforcement Case." The following table breaks down the cases classified in this manner:

Federal Forfeiture Case Analysis - Local Law Enforcement Cases						
	Seizure Not Reported to County PA			Seizure	Total Cases	Value
	In Rem	CAFA	CAFA			
Law Enforcement Agency						
Kansas City Police Department	0	6	7	0	13	\$ 522,084
St. Charles MEG Unit	0	3	4	0	7	89,646
St. Louis County Police Department	0	0	0	0	0	0
St. Louis Police Department	0	2	2	0	4	279,040
Missouri State Highway Patrol	3	2	1	1	7	5,975,150
Piedmont Police Department	0	0	1	0	1	15,418
Hickory County Sheriff	0	1	0	0	1	4,375
Totals	3	14	15	1	33	\$ 6,885,713

For thirty-two of these thirty-three cases, the seizure was not reported by a local law enforcement officer to a county Prosecuting Attorney or the Attorney General prior to federal authorities being called to seize the property. The prosecutors were not given the opportunity to determine how to proceed with these potential forfeiture cases. To ensure county Prosecuting Attorneys are aware of all law enforcement agencies participating in seizure activity, these agencies should be required to notify the county Prosecuting Attorney of any Equitable Sharing requests made by those agencies.

For fourteen of these cases which are classified as "CAFA Forfeiture Proceeding Possible" a felony state charge was possible based on the violations noted in the case file which would have allowed for the initiation of a CAFA proceeding. This conclusion was made whether or not the corresponding criminal case was eventually prosecuted in federal court. These seizures could have resulted in CAFA proceedings, but other circumstances may have prevented those proceedings from being completed. The total value of these fourteen seizures was \$282,052. For fifteen of these cases which are classified as "CAFA Forfeiture Proceeding Unlikely" a state felony charge was not possible based on the violations noted in the case file and there was no indication in the file if the individual the property was seized from disclaimed ownership interest in it which may have allowed the seizure to be handled under an In Rem CAFA proceeding (explained further in the next part of this section). The total value of these fifteen seizures was \$3,662,376. For three of these seizures which are classified as "In Rem CAFA Forfeiture Proceeding Possible" a state felony charge was not possible based on the violations noted in the case file; however, the individual the property was seized from disclaimed ownership interest in it which would have allowed the seizure to be handled under an In Rem CAFA proceeding (explained further in the next part of this section). The total

value of these three seizures was \$2,899,285. One seizure took place in the state of Michigan related to a joint operation of the Missouri and Michigan State Highway Patrols and was controlled by the Michigan Highway Patrol.

Use of In Rem CAFA Proceedings

For many potential seizures in the state, the individual in possession of the property cannot be charged with a felony crime. In general, these seizures could not proceed under the CAFA because a felony conviction or plea cannot occur. In some instances the individual in possession of the property disavows any ownership interest in it. Under these circumstances the property may be considered abandoned or unclaimed which could allow it to be subject to a state In Rem CAFA proceeding. The outcome of such a case is largely dependent on whether this individual or someone else claims ownership of the property. Until recently, it does not appear that county Prosecuting Attorneys and the state Attorney General had viewed In Rem CAFA proceedings as a viable option for narcotics related seizures due to the doubt about the outcome of the proceedings. However, in January 1999, the state Attorney General's office prosecuted an In Rem CAFA proceeding based on monies seized by the State Highway Patrol after a vehicle stop and search for which the driver disavowed any ownership interest in the monies. The case was decided in the state's favor in May 1999.

During our review of seizure cases at the various local law enforcement agencies, we noted that the agents of some local offices of federal agencies or federal task forces have developed a generic form which they attempt to get individuals to sign if they disavow any ownership interest in monies subject to federal seizure. The form used often indicates that by signing it the individual waives his or her right to notice of seizure of this currency and does not have the right to file a petition for return of the currency since it does not belong to him or her. It appears such forms are used by federal agencies to improve the favorable decision rate regarding federal seizure cases. If a similar form were used by Missouri law enforcement agencies the success rate for narcotics related In Rem CAFA proceedings may be enhanced and concerns of prosecutors regarding case outcomes lessened or alleviated.

For our analysis of federal seizure cases, we classified three seizures as "In Rem CAFA Forfeiture Proceeding Possible." It appears these seizures could have been handled as In Rem CAFA proceedings similar to the January 1999 seizure noted above, but were not because prosecutors and law enforcement agencies apparently did not consider this option as a viable forfeiture method at the time the seizures took place.

- ! It appears that under the current CAFA requirements, the number of potential CAFA forfeiture proceedings could be increased through expanded use of In Rem CAFA proceedings. This might occur if a standard form was developed for law enforcement officers to use that individuals could be asked to sign if they disavowed ownership interest in monies subject to forfeiture.